

# United States District Court

EASTERN DISTRICT OF WISCONSIN

## JUDGMENT IN A CIVIL CASE

MICHAEL JOHNSON,

Plaintiff,

V.

CASE NUMBER: 04-C-242

MILWAUKEE COUNTY,  
DAVID A. CLARKE, JR.,  
MARY ANN GRIMES,  
JOHN O'SHEA,  
MARY ELLEN POWERS,  
RICH SCHERMERHORN,  
MINNIE LINYEAR, and  
MILWAUKEE COUNTY CIVIL SERVICE COMMISSION,

Defendants.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the motion by the defendants to dismiss the above-entitled action is GRANTED. (1) Plaintiff's claim for declaratory judgment on his HIPAA claim cannot proceed because there is no right of action under HIPAA. (2) Plaintiff is not an "eligible" employee under the Family Medical Leave Act and his claims based on this must be dismissed. (3) Plaintiff's request for declaratory judgment pursuant to 42 U.S.C. § 1983 that the defendants violated his Fourteenth Amendment due process rights in two instances is dismissed because plaintiff does not have a

property interest pursuant to Wisconsin law. (4) Plaintiff's allegation pursuant to 42 U.S.C. § 1983 that two defendants are liable for committing a battery against him is summarily dismissed because an adequate state law remedy forecloses a § 1983 action.

(5) Plaintiff's Wisconsin State law claims are dismissed because plaintiff failed to comply with the Wisconsin notice of claim statute.

This action is hereby **DISMISSED**.

February 1, 2006  
Date

SOFRON B. NEDILSKY  
Clerk

s/ Linda M. Zik  
(By) Deputy Clerk

*Approved as to form:*

s/ Rudolph T. Randa  
Hon. Rudolph T. Randa  
Chief Judge

s/ February 1, 2006  
Date